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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LA CLINICA DE LA RAZA, et al.,

Plaintiffs,

v.

**U.S. DEPARTMENT OF HOMELAND SECURITY, et
al.,**

Defendants.

Case No. 4:19-cv-04980-PJH

JOINT STATUS STATEMENT

Dept: Courtroom 3, 3rd Floor
Judge: Hon. Phyllis Hamilton
Trial Date: Not set.
Action Filed: August 16, 2019

1 The parties respectfully submit this Joint Status Statement pursuant to the Court’s November
 2 15, 2022 Order continuing the stay of this matter. In that Order, the Court directed the parties to
 3 file a joint status statement within 21 days after the Supreme Court acts on the petition for writ of
 4 certiorari in *Texas v. Cook County, Illinois*, No. 22-234, to update the Court, and, if warranted,
 5 request a further extension of the stay.

6 7 Seventh Circuit

8 On August 17, 2021, the U.S. District Court for the Northern District of Illinois denied the
 9 motions of several States, led by Texas, (i) to intervene in litigation challenging the 2019 public
 10 charge rule that is at issue in this case, and (ii) for relief from the court’s grant of partial summary
 11 judgment in favor of the plaintiffs pursuant to Fed. R. Civ. P. 60(b). *Cook County v. Mayorkas*,
 12 340 F.R.D. 35 (N.D. Ill. 2021). On June 27, 2022, the Seventh Circuit affirmed the District Court’s
 13 denial of the motion to intervene. *Cook County v. Texas*, 37 F.4th 1335 (7th Cir. 2022). On
 14 September 9, 2022, the States filed a petition for writ of certiorari in the Supreme Court. *See Texas*
 15 *v. Cook County, Illinois*, No. 22-234. On January 9, 2023, the Supreme Court denied the petition.

16 17 DHS Rulemaking

18 On August 23, 2021, DHS published an advanced notice of proposed rulemaking “to seek
 19 broad public feedback on the public charge ground of inadmissibility that [would] inform its
 20 development of a future regulatory proposal.”¹ On February 24, 2022, DHS published a notice of
 21 proposed rulemaking “to prescribe how it determines whether a noncitizen is inadmissible to the
 22 United States under section 212(a)(4) of the Immigration and Nationality Act because they are
 23 likely at any time to become a public charge,” and requested comments on or before April 25,
 24 2022.² On or about September 9, 2022, DHS issued a Final Rule which “implements the public
 25 charge ground of inadmissibility. . . in a manner that will be consistent with congressional direction;
 26 that will be clear and comprehensible for officers as well as for noncitizens and their families; and

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28 ¹ Public Charge Ground of Inadmissibility, 86 Fed. Reg. 47,025 (Aug. 23, 2021).

² Public Charge Ground of Inadmissibility, 87 Fed. Reg. 10,570 (Feb. 24, 2022).

1 that will lead to fair and consistent adjudications, thereby mitigating the risk of unequal treatment
2 of similarly situated individuals.”³ The Final Rule became effective on December 23, 2022.⁴ On
3 January 5, 2023, Texas filed a complaint against DHS and other defendants in the U.S. District
4 Court for the Southern District of Texas challenging the Final Rule under the Administrative
5 Procedure Act. *State of Texas v. Mayorkas et al*, 6:23-cv-00001 (S.D. Tex.).

6 * * *

7 In light of the above circumstances, Plaintiffs request that the Court further extend the stay
8 of this matter until March 1, 2023 to allow additional time for Plaintiffs to evaluate next steps.
9 Defendants note that, at this point, a judgment vacating the rule that was challenged in this case has
10 been in place for over two years, all attempts to intervene in the public charge litigation have been
11 unsuccessful, and DHS has issued a new Final Rule that implements a different policy than the rule
12 challenged here. Defendants believe that this case, and others challenging the vacated 2019 rule,
13 should promptly be dismissed as moot. Indeed, various plaintiffs challenging the 2019 rule have
14 already voluntarily dismissed their claims or have agreed to do so. Nevertheless, as a courtesy,
15 Defendants do not oppose Plaintiffs’ request for a brief extension of the stay, but Defendants do
16 not intend to consent to any further extension of the stay.

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28 ³ Public Charge Ground of Inadmissibility, 87 Fed. Reg. 55,472-55,473 (Sept. 9, 2022).

⁴ *Id.*

1 Dated: January 30, 2023

Respectfully Submitted,

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25 *et al.*

ATTESTATION OF CONSENT TO FILE ELECTRONIC SIGNATURE

I, Joshua Kolsky, attest that I have obtained the concurrence of the other signatories in the filing of this Joint Status Statement with their electronic signatures.

/s/ Joshua M. Kolsky
JOSHUA M. KOLSKY

Dated: January 30, 2023.